REMARKS:

In the Office Action dated August 23, 2007, claims 29-38, in the above-identified U.S. patent application were rejected. Reconsideration of the rejections is respectfully requested in view of the above amendments and the following remarks. Claims 29-32 and 38 remain in this application, claims 33-37 have been canceled and new claim 39 has been added to the application.

The specification was objected to due to several misspellings. The specification has been amended to correct the informalities pointed out in the office action. In view of these amendments, applicants request that this rejection be withdrawn.

Claim 38 was rejected under 35 USC §102(b) as anticipated by Gabard. Applicants respectfully point out that the present invention uses microcapsule formulations of dinitroanilines to prevent crop damage while the prior art uses an emulsifiable concentrate (EC) formulations of the same pesticide, namely the dinitroaniline compound. This different type of safening effect is clearly demonstrated for the dinitroaniline compound pendimethalin by Examples 5-8 in the present application, where "it can be seen that ... the microcapsule formulation increases the desirable alfalfa yield relative to the EC formulation" (Example 5) or where "the microcapsule formulation caused less damage to lettuce [or to tomatoes or to corn] than the EC formulation" (Examples 6-9). Additionally, paragraph [007] states that "microcapsule formulation of this invention show a safening effect, i.e. much less damage to a variety of crops compared with EC formulations". While Gabard indicates on page 5 that the active ingredients can be encapsulated, Gabard does not suggest that microencapsulation of the dinitroaniline will result in a safening effect. Though encapsulation is mentioned in Gabard as a possible formulation, none of the examples

show the effects of microencapsulation and thus Gabard does not suggest a method of safening using a microcapsule composition comprising a dinitroaniline compound. Claim 38 is directed to a method of safening a desirable crop from the effects of a dinitroaniline compound. In Gabard, the dinitroaniline compound is included to reduce injury to crops due to the azafenidin (i.e. dinitroaniline is added as a crop safener). There is no suggestion in Gabard that the crops should be protected from the safening dinitroaniline. Claim 38 has been amended to clarify that the present method is for safening a crop from the effects of a dinitroaniline compound. In view of the above discussion and amendments, applicants request that this rejection be withdrawn.

Claims 29-32 were rejected under 35 USC §103(a) as obvious over Anderson, Lo and Benoff. Anderson at al (US 5,665,674) teaches the use of auxin transport inhibitors as potentiators for any type of herbicide (col. 2, line 22-26). Especially preferred auxin transport inhibitors are compounds of formula A (col. 1), which comprise among many other herbicidal semicarbazones the herbicide diflufenzopyr. All these auxin transport inhibitors have "the potential to enhance the activity of different classes of herbicides" (col. 4, line 25-27). One skilled in the art would know that such an auxin transport inhibitor must be present in the formulation in order to potentiate the activity of another herbicide. In contrast to Anderson, the purpose of the present invention is to reduce crop damage caused by dinitroaniline formulations (paragraph [003]), Accordingly, Examples 1-9 in the present application clearly demonstrate that the formulations according to the invention caused less damage to alfalfa, lettuce, tomatoes or corn compared to known dinitroaniline formulations (i.e. non-microencapsulated formulations).

Lo and Benoff are cited for the disclosure of microencapsulation processes. Applicants contend that a person skilled in the art who combines the teachings of Lo and Benoff with the teaching of Anderson et al, will end up with a microcapsule formulation which must comprise auxin transport inhibitors. According to Anderson dinitroanilines are classified as growth inhibitors (col.3, 1.32) and dicamba as growth regulator (col. 2, line 61). Thus, neither of these compounds are classified as auxin transport inhibitors (col. 2, line 59). One skilled in the art would not modify Anderson in view of Lo and Benoff to remove the auxin transport inhibitor since Anderson teaches that the auxin transport inhibitor is essential to his invention. In addition, one skilled in the art would not look to Anderson, Lo and Benoff to find a way to reduce crop damage caused by dinitroanilines as none of these references suggest methods for reducing crop damage. A person skilled in the art accidentally combining the teachings of Anderson, Lo and Benoff would end up with a different invention than the invention of claims 29-32. In view of the above discussion, applicants request that this rejection be withdrawn.

Claims 33-37 were rejected under 35 USC §103(a) as obvious over Benoff in view of Soper. Though applicants respectfully disagree with this rejection, in order to advance the examination of the present application, claims 33-37 have been canceled from the present application. In view of this cancellation, this rejection is moot.

Applicants respectfully submit that all of claims 29-32 and 38-39 are now in condition for allowance. If it is believed that the application is not in condition for allowance, it is respectfully requested that the undersigned attorney be contacted at the telephone number below.

In the event this paper is not considered to be timely filed, the Applicant respectfully petitions for an appropriate extension of time. Any fee for such an extension together with any additional fees that may be due with respect to this paper, may be charged to Counsel's Deposit Account No. 02-2135.

Respectfully submitted,

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